

e. **Remarks**

AMENDMENTS

The amendments to claims 1 and 24 are, e.g., supported by Figure 3 and between page 5, line 16, and page 6, line 4, of the application.

CLARITY REJECTIONS

At pages 2-3, the Office Action rejects claims 1, 6, 27 under 35 USC § 112, 2nd par., based on recitations of the word “ones” therein.

As amended, claims 1, 6, and 27 no longer recite “ones”. For that reason, these rejections should now be moot.

CLAIM OBJECTIONS

At page 4, the Office Action objects to the recitation of “the lists” at lines 4 and 8 of claim 1.

Applicants note that claim 1, line 3, recites “lists”. This recitation of “lists” provides antecedent basis for the recitation of “the lists” later at lines 4 and 8 of claim 1. Proper antecedent basis does not require a recitation of “the plurality of lists of channel rankings”. Indeed, the M.P.E.P. even states that:

the failure to provide explicit antecedent basis for terms does not always render a claim indefinite. If the scope of the claim would be reasonably ascertainable by those of skill in the art, then the claim is not indefinite.

M.P.E.P. 2173.05(e).

The recitations of “the lists” in claim 1 lead to a readily ascertainable scope in light of the recitation of “lists” at line 3 of the same claim. For these reasons, Applicants respectfully request that these objections be withdrawn.

At page 4, the Office Action objects to the recitation of “the base stations” at lines 6-7 of claim 1.

Applicants have replaced “ones of the base stations” by “base stations”.

At page 4, the Office Action objects to the recitation of “lists of channel rankings” at line 9 [sic] of claim 24.

Applicants have inserted “frequency” before “channel rankings” at line 8 of claim 24.

OBVIOUSNESS REJECTIONS

At pages 5, the Office Action rejects claims 1 – 4, 24, 26, and 28 as obvious over a combination of an article of Borst et al, Bell Labs Technical Journal Vol. 2, No. 3, (1997) pages 81 – 98 (Herein, referred to as Borst article.) and US Patent 6,535,742 of Jiang.

Claim 1

In particular, the Examiner states:

Regarding **Claim 1**, Borst [article] discloses a process for assigning frequency channels to communications in a cellular wireless system, comprising: performing a simulation of the system to produce a plurality of lists of channel rankings, the simulation evolving the lists according to an algorithm ..., the algorithm adjusts the system to dynamically adapts [sic] to the changes in the system; and

Office Action, pages 5-6 (underlining added).

The above-cited portion of the Office Action describes a process that combines two processes of the Borst article as if the two processes were taught as a single process. Instead, the Borst article discloses the two processes as separate, and neither of the individual processes has all of the above-recited features.

Indeed, the Borst article teaches a first process, i.e., IB-DCA, which it discloses as being useable for assigning frequency channels to communications in a cellular wireless system. The Borst article does not however, disclose or suggest that this first process includes performing simulations of an operational cellular wireless system. See Supplemental Declaration under 37 CFR 1.132 by S. Borst, pars. 4 – 5.

Also, the Borst article teaches a second process based on a tool W. The second process includes performing a simulation of a cellular wireless system, but the Borst article does not disclose or suggest using the second process to assign frequency channels in an operating cellular wireless system. Instead, the Borst article discloses using the simulation tool W for designing and predicting performance of a cellular wireless system, i.e., prior to implementation of the system. See Supplemental Declaration under 37 CFR 1.132 by S. Borst, pars. 3 and 6. For example, the Borst article does not describe the second process as including updating the lists of the channel rankings in response to receiving new input data from the actual base stations as in pending claim 1. Instead, the

Borst article describes using the second process to predict the performance of designed systems, i.e., prior to their construction.

In addition, the Borst article does not suggest combining the first and second processes into a single process. Rather, the Examiner makes such a suggested combination in the above-cited portion of the Office Action. But, the Examiner provides no motivation for combining the simulation tool W for evaluating system performance and the IB-DCA process for actually assigning channels. Indeed, the Office Action makes no proposal of a benefit from such a combination, and provides no citation of a known problem solved by such a combination. For these reasons, the combination of the two separate processes as described in the above-cited portion of the Office Action is only motivated by improper hindsight from the pending application.

For the above reasons, the Office Action does not provide a prima facie case of obviousness of claim 1 over the combination of references as applied therein.

Claims 2 – 14

Claims 2 – 14 are non-obvious , at least, by their dependence on amended claim 1.

Claim 24

Regarding claim 24, the Examiner states:

Borst [article] discloses a channel allocation system for ranking frequency channels for usage by base stations of a cellular wireless system, comprising:
a processor (e.g., system computer, MSC, BSC) configured to dynamically simulate the cellular wireless system according to an algorithm that dynamically produces lists of frequency channel rankings for individual base stations in a manner that reduces inter-call interference ...; and
the processor configured to use the input data to determine a starting state for the dynamical simulation ..., where the computer [sic] uses a simulation to dynamically allocate channel lists in which the base stations use for communicating with mobile units of each sector.

Office Action, pages 7-8 (underlining added).

Similarly, the above-cited portion of the Office Action combines first and second systems as if the Borst article taught the two systems as a single system. Instead, the Borst article discloses the first and second systems as separate and neither of the separate systems has all of the above-cited features.

Indeed, the Borst article teaches a channel allocation system based on IB-DCA. The Borst article does not however, disclose or suggest that a system implementing IB-DCA would include a processor configured to perform a simulation of the cellular wireless system. See Supplemental Declaration under 37 CFR 1.132 by S. Borst, pars. 4 – 5.

The Borst article also teaches a second system, i.e., the tool W. While the tool W can perform a simulation of a cellular wireless system, the Borst article does not disclose or suggest using the simulation tool W for performing actual assignments of frequency channels in a cellular wireless system. Instead, the Borst article teaches using the tool W for designing and predicting performance of the cellular wireless system, i.e., processes performed before the system is actually operating. See Supplemental Declaration under 37 CFR 1.132 by S. Borst, pars. 3 and 6.

In addition, the Borst article does not suggest combining a system based on IB-DCA with the simulation tool W. Rather, the Examiner is suggesting this combination in the above-cited portion of the Office Action. But, the Office Action provides no motivation from the prior art for combining the simulation tool W with an actual system based on IB-DCA. Indeed, the Office Action provides no proposed benefit for making such a combination and cites no known problem as being solved by such a combination. The combination of these separate systems as described in the above-cited portion of the Office Action is an improper hindsight construction from the pending application.

For those reasons, the Office Action does not provide a prima facie case of obviousness of claim 24 over the combination of references as applied therein.

Claims 26 – 28

Claims 26 – 28 are non-obvious, at least, by their dependence on amended claim 24.

CONCLUSION

For the above reasons, Applicants request allowance of claims 1 – 14, 24, and 26 – 28 as currently presented.

In the event of any non-payment or improper payment of a required fee, the Commissioner is authorized to charge or to credit **Lucent Technologies Deposit Account No. 12-2325** to correct the error.

Respectfully,

A handwritten signature in cursive script, appearing to read "John McCabe".

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Date: Dec. 12, 2005
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c. Amendments to Drawings

None